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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,388	06/13/2001	Yoshikazu Shingu	SHC0131	5198

7590 03/24/2005  
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EXAMINER

ANDERSON, CATHARINE L

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/880,388

Applicant(s)

SHINGU ET AL.

Examiner

C. Lynne Anderson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5 and 6 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 5 January 2005 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the fine fusion spots forming a depression in the surface of the wings) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Kline discloses wings being fused at spots 250. Since no further structural limitations are given in instant claim 1, it is obvious that the spots 250 at which the wings are fused are fusion spots. Kline therefore fulfills the limitations of claim 1.

Claim 4 further defines the fusion spots as penetrating into the inner exposed surface of the wings, a structural limitation not found in Kline. Therefore, claim 4 is objected to as containing allowable subject matter.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1-3 and 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kline et al. (5,957,908).

With respect to claims 1, 3, and 6, Kline discloses a disposable diaper 20, as shown in figure 1, comprising a topsheet 24, a backsheet 26, a liquid absorbent core 28, a front waist region 46, a rear waist region 44, a crotch region 48, and wings 62 and 64 formed on the rear portion and extending outward. Fastener sections 30 are formed on the wings 62 and 64 and extend outward, the fastener sections 30 having male fasteners formed on and extending from their inner surfaces, as shown in figure 7. The wings 62 and 64 comprise a nonwoven fabric made of thermoplastic synthetic fibers, as disclosed in column 15, lines 29-67. A plurality of fine fusion spots 250 are formed on the wings and arranged such that there is a greater number of fine fusion spots 250 per unit area in the outer side regions 253 of the wings 62 and 64 than in the inner regions 254. The plurality of fine fusion spots 250 are formed by heat or pressure bonding, as disclosed in column 16, lines 28-29. Fine fusion bonds formed by these methods will inherently leave fine fusion spots on the exterior surface of the wings, since the application of heat or pressure to the wings to form the bonds will alter the exterior surface of the wings in the process. The area comprising the greater number of fine fusion spots 250 comprises the area extending from the inner transverse edge of the male mechanical fastener strips 30 inward over a transverse distance that is at least equal to the width of the male mechanical fastener strips 30, as shown in figure 7. Kline discloses the wings 62 and 64 being made of a laminate of two layers, where the layers

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are bonded at spots 250 using methods such as heat, pressure, or ultrasound (column 16, lines 28-30).

Kline does not, however, expressly disclose that the fine fusion spots are located on the inner exposed surfaces of the wings. At the time the invention was made, it would have been obvious to one of ordinary skill in the art that the bonding at spots 250 would form a plurality of spots at which the wing is fused. Therefore, the spots 250 of Kline are obviously fusion spots.

With respect to claim 2, the outer regions 253 of the wings 62 and 64 have a higher density of fine fusion spots 250, as shown in figure 7, and therefore are stiffer than the inner regions 254.

With respect to claim 5, the outer side region of the wings 62 and 64 may be defined as having a width equal to the width of the male mechanical fastener strips 30.

### ***Allowable Subject Matter***

Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

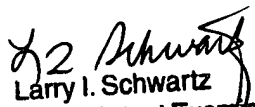
Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (571) 272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Schwartz can be reached on (571) 272-4390. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CLX

cla  
March 20, 2005

  
Larry I. Schwartz  
Supervisory Patent Examiner  
Group 3700